APPENDIX

CHRISTIAN LEGAL SOCIETY
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September 29, 1982

Mr. Daniel Benson
5416 16th Place
Lubbock, Texas 79416

Dear Dan:

Thank you for your letter of the 24th expressing your concern regarding CLS involvement in the Lubbock case and the indication of your withdrawing membership from CLS.

I appreciate your frank expression of concern and I doubt if actually you and I are very far apart on the substantive issues raised in your letter. It is quite clear that the Lubbock School Board over a period of years had deliberately violated what they knew, or should have known, were the constitutional mandates of separation of church and state. Sadly, of course, that makes the legitimate issues in the present case harder to bring effectively to the court's attention. I am sure there were parents of deep religious conviction who felt very concerned about those school policies and whose children may well have been intimidated by them.

It was our position that independent of past constitutional violations, the legal question of whether the current policy treating religious student groups on the same footing as non-religious student groups was still at issue.

When we first began thinking about the Lubbock case, one of the questions was whether the alleged bad faith of the school district was going to make it impossible to effectively raise the larger issue but felt since it was now

the case in the system and Christian student groups were being shut down throughout the United States on the basis of *Brandon v. Guilderland School District* and now *Lubbock*, that there was little choice but to fight where the battle raged.

Initially, our concern was to gain certiorari from the Supreme Court. A task you know is quite difficult. In order to call to the Court's attention the seriousness of this case, we felt that obtaining the assistance of someone like Jaworski might be very crucial. Through Bill Bright and others we contacted Mr. Jaworski who indicated a willingness to file an amicus brief. Then, of course, the question was whether an amicus brief would be adequate to get the Court's attention and whether we didn't need the more substantive involvement of the case, and at that point, after discussions with Fulbright, Jaworski and present council for the school board, a minimal involvement as co-counsel by Fulbright and Jaworski was developed. Most of the legal work being done by our own staff—and I am unclear as to what the distinction is between employing our own staff and employing other competent staff.

We have also recently received the support of American's United who will be filing a brief on our behalf, National Association of Evangelicals, the Baptist Joint Committee and others often associated with separationist postures. We are convinced, therefore, that the constitutional question of whether a school *must* discriminate against religious expression is a crucial one and central to the early commitment to The Center for Law and Religious Freedom.

Defending a party who has some misconduct does not at all change the central legal question any more than our support of the Unification Church and its fight against government registration being improper. One of the things you as an attorney must recognize is the distinction between the legal issue and the client—an issue which for

The Center for Law and Religious Freedom is central to our involvement in this case.

It is always sad to us when persons choose to withdraw —not at all because of any lost revenue of "numbers of members"—but because we do see ourselves as trying to create a family, and like any family, there are inevitable differences of opinion. Our hope would be that when people disagree, they fight rather than flee and stay a part of the family. That decision, of course, must be made by each family member and it is our responsibility to honor it.

Sincerely,

/s/ LYNN
Lynn Robert Buzard
Executive Director

LRB:hce